

(4) The amount of the offered securities sold during such period by the underwriters and the price, or range of prices, at which such securities were sold, and

(5) The amount of the offered securities to be reoffered to the public and the public offering price.

(f)(1) The inside front cover page or the back cover page of any prospectus relating to such registration statement shall contain the statement in paragraph (f)(2) of this section, inserting the expiration date of the period prescribed by section 4(3) of the Act and Rule 174 (17 CFR 230.174) thereunder, except that this statement need not be included if, pursuant to Rule 174, dealers are not required to deliver a prospectus, or if the exemption provided by section 4(3) of the Act is not applicable because of the provisions of section 24(d) of the Investment Company Act of 1940. If such expiration date is not known on the effective date of the registration statement, it shall be included in the prospectus copies of which are required to be filed pursuant to Rule 424(b) (§ 230.424(b)).

(2) The following statement required by paragraph (f)(1) of this section shall be printed in boldface type or italic type at least as large as eight point Modern type and at least two points leaded:

Until ——— (insert date) all dealers effecting transactions in the registered securities, whether or not participating in this distribution, may be required to deliver a prospectus. This is in addition to the obligation of dealers to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

(g) The outside front cover page of a Statement of Additional Information to be used before the effective date of the registration statement (or, in the case of any Statement of Additional Information that omits information as permitted by § 230.430A, to be used before the determination of the initial public offering price), shall set forth, in red ink, the caption “Subject to Completion,” the date of its issuance and the following statement printed in type as large as that generally in the body of the Statement of Additional Information:

Information contained herein is subject to completion or amendment. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold nor may any offers to buy be accepted prior to the time the registration statement becomes effective. This Statement of Additional Information does not constitute a prospectus.

(h) Where a prospectus is distributed through an electronic medium, issuers may satisfy legibility requirements applicable to printed documents, such as paper size, type size and font, bold-face type, italics and red ink, by presenting all required information in a format readily communicated to investors, and where indicated, in a manner reasonably calculated to draw investor attention to specific information.

[47 FR 11401, Mar. 16, 1982, as amended at 52 FR 21262, June 5, 1987; 52 FR 30146, Aug. 13, 1987; 57 FR 36473, Aug. 13, 1992; 57 FR 56834, Dec. 1, 1992; 61 FR 24655, May 15, 1996]

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

(a) An advertisement, other than one excepted from the definition of prospectus by section 2(10) of the Act and rule 134 thereunder, shall be deemed to be a prospectus under section 10(b) of the Act for the purpose of section 5(b)(1) of the Act if:

(1) It is with respect to an investment company registered under the Investment Company Act of 1940 (*1940 Act*), or a business development company which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the Act,

(2) It contains only information the substance of which is included in the section 10(a) prospectus,

(3) It states, conspicuously, from whom a prospectus containing more complete information may be obtained and that an investor should read that prospectus carefully before investing,

NOTE: The fact that the statements included in the advertisement are included in the section 10(a) prospectus does not relieve the issuer, underwriter or dealer of the obligation to ensure that the advertisement is not false or misleading.

(4) It contains the statement required by Rule 481(b)(2) under the Securities

Act (§230.481(b)(2) of this chapter) when used prior to effectiveness of the company's registration statement or, in the case of a registration statement that becomes effective omitting certain information from the prospectus contained in the registration statement in reliance upon Rule 430A under the Securities Act (§230.430A of this chapter), when used prior to the determination of the public offering price.

(5) It does not contain and is not accompanied by any application by which a prospective investor may invest in the investment company; *Provided, however,* That a prospectus meeting the requirements of section 10(a) of the Act by which a unit investment trust offers periodic payment plan certificates may contain a contract application although the prospectus includes another prospectus that, pursuant to this rule, omits certain information required by section 10(a) of the Act regarding investment companies in which the unit investment trust invests, and

(6) In the case of an advertisement containing performance data of an open-end management investment company or a separate account registered under the 1940 Act as a unit investment trust offering variable annuity contracts (*trust account*), it includes a legend disclosing that the performance data quoted represents past performance and that the investment return and principal value of an investment will fluctuate so that an investor's shares, when redeemed, may be worth more or less than their original cost; *Provided, however,* That an advertisement may omit legend disclosure pertaining to the fluctuation of the principal value of an investment in a money market fund. In addition, if a sales load or any other nonrecurring fee is charged, the advertisement must disclose the maximum amount of the load or fee; if the sales load or fee is not reflected, the advertisement must also disclose that the performance data does not reflect its deduction, and that, if reflected, the load or fees would reduce the performance quoted;

NOTE TO PARAGRAPH (A)(6). All advertisements made pursuant to this rule are subject to Rule 420 [17 CFR 230.420].

(7) In the case of an investment company that holds itself out to be a

"money market" fund, it includes a prominent statement that (i) an investment in the fund is neither insured nor guaranteed by the U.S. Government and (ii) there can be no assurance that the fund will be able to maintain a stable net asset value of \$1.00 per share (or, if other than \$1.00, the applicable net asset value); *provided, however,* that a money market fund not holding itself out as maintaining a stable net asset value may omit the portion of the statement required by paragraph (a)(7)(ii) of this section.

(b) An advertisement made pursuant to paragraph (a) of this section need not contain the statement required by Rule 481(b)(1) (§230.481(b)(1)).

(c) An advertisement made pursuant to paragraph (a) of this section need not be filed as part of the registration statement filed under the Act.

NOTE: These advertisements, unless filed with the NASD, are required to be filed in accordance with the requirements of Rule 497 (17 CFR 230.497).

(d) In the case of a "money market" fund, any quotation of the money market fund's yield contained in an advertisement shall be:

(1) A quotation of current yield based on the method of computation prescribed in Form N-1A (set forth in §§239.15A and 274.11A of this chapter), Form N-3 (set forth in §§239.17a and 274.11b of this chapter), or Form N-4 (set forth in §§239.17b and 274.11c of this chapter) and identifying the length of and the date of the last day in the base period used in computing that quotation; or

(2) A quotation of current yield described in paragraph (d)(1) of this section and a corresponding quotation of effective yield based on the method of computation prescribed in Forms N-1A, N-3, or N-4; *Provided,* That when both a quotation of current yield and effective yield are used in the same advertisement, each quotation shall relate to an identical base period and shall be given equal prominence.

(e) In the case of an open-end management investment company or a trust account (other than a money market fund referred to in paragraph (d) of this section), any quotation of the company's performance contained

in an advertisement shall be limited to quotations of:

- (1) A current yield that—
 - (i) Is based on the methods of computation prescribed in Form N-1A, N-3, or N-4;
 - (ii) Is accompanied by quotations of total return as provided for in paragraph (e)(3) of this section;
 - (iii) Is set out in no greater prominence than the required quotations of total return; and
 - (iv) Identifies the length of and the date of the last day in the base period used in computing the quotation.
- (2) A tax equivalent yield that—
 - (i) Is based on the methods of computation prescribed in Form N-1A, N-3, or N-4;
 - (ii) Is accompanied by quotations of yield as provided for in paragraph (e)(1) of this section and total return as provided for in paragraph (e)(3) of this section;
 - (iii) Is set out in no greater prominence than the required quotations of yield and total return;
 - (iv) Relates to the same base period as the required quotation of yield; and
 - (v) Identifies the length of and the date of the last day in the base period used in computing the quotation.
- (3) Average annual total return for one, five, and ten year periods; *Provided*, That if the company's registration statement under the Securities Act of 1933 (15 U.S.C. 77A *et seq.*) has been in effect for less than one, five, or ten years, the time period during which the registration statement was in effect is substituted for the period(s) otherwise prescribed; and *Provided further*, That such quotations—
 - (i) Are based on the methods of computation prescribed in Form N-1A, N-3, or N-4;
 - (ii) Are current to the most recent calendar quarter ended prior to the submission of the advertisement for publication;
 - (iii) Are set out with equal prominence; and
 - (iv) Identify the length of and the last day of the one, five, and ten year periods; and
- (4) Any other historical measure of company performance (not subject to any prescribed method of computation) if such measurement—

- (i) Reflects all elements of return;
- (ii) Is accompanied by quotations of total return as provided for in paragraph (e)(3) of this section;
- (iii) Is set out in no greater prominence than the required quotations of total return; and
- (iv) Identifies the length of and the last day of the period for which performance is measured.
- (f) All performance data contained in any advertisement must be as of the most recent practicable date considering the type of investment company and the media through which the data will be conveyed; *Provided, however*, That any advertisement containing total return quotations shall be considered to have complied with this provision if the total return quotations are current to the most recent calendar quarter ended prior to the submission of the advertisement for publication.

[47 FR 11446, Mar. 16, 1982, as amended at 48 FR 55725, Dec. 15, 1983; 52 FR 21262, June 5, 1987; 53 FR 3879, Feb. 10, 1988; 53 FR 9768, Mar. 25, 1988; 56 FR 8124, Feb. 27, 1991; 61 FR 24655, May 15, 1996]

§ 230.483 Exhibits for certain registration statements, financial data schedule.

If a registration statement is prepared on a form available solely to investment companies registered under the Investment Company Act of 1940, or a business development company which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the Act, the following provisions apply:

- (a) Such registration statement shall contain an exhibit index, which should immediately precede the exhibits filed with such registration statement. The exhibit index shall indicate by handwritten, typed, printed or other legible form of notation in the manually signed original registration statement the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact shall be noted in the exhibit index referred to in the preceding sentence. Further, the first page of the manually signed registration statement shall list the page in the filing where the exhibit index is located.